IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10547 OF 2004

Dr. Chandra Bhushan Singh ...Petitioner
vs.
Smt. Neera Devi ....Respondent

Petitioner present in person.

V.D. Shelke for the respondent.

CORAM: S.U. KAMDAR, J.

DATE : 25th November, 2005.

P.C. :

1. The present petition is challenging the order passed by the Family court fixing the maintenance under section 24 of the Hindu Marriage Act for a sum of Rs.3000/- per month as and by way of interim maintenance and the cost of litigation of

Rs.5,000/- has been awarded. The petitioner has been Scientist working with the Government of India and the petitioner has deliberately not disclosed his income before the lower cost. However the petitioner is highly educated and working as a Research Officer with the Central Research Institution, Pune. at the relevant time the his salary was around Rs.45,000/-.

2. The impugned order has been challenged by

the petitioner on two grounds. Firstly it has been contended that respondent is not entitled to maintenance because she was of a loose character. The trial court has given a finding that the wide allegations are made about the respondent being a prostitute and running a brothel but there is no material or evidence insupport thereof. However learned counsel for the petitioner has drawn my attention to the statement recorded of the son in P.A.No. 7 of 2001 and drawn my attention where the son has stated that he has found his mother with three persons in compromising position from the window. At this stage merely on the statement of the son recorded in some different proceedings I am not inclined to interfere with the order passed by the Magistrate Court. Thereafter learned counsel has drawn my attention to an interim order passed by the Allahabad High Court under Section 125 of the Criminal Procedure Code in Maintenance proceedings wherein the Allahabad High Court has passed an order without notice to the respondent herein and has recorded the allegations of the petitioner and has further

come to the prima-facie opinion that by non-disclosing the proceedings of family court pending before the Pune court the respondent has not come to the court with clean hands and on that ground has stayed the order passed by the Criminal Court under section 125 of the CPC for paying maintenance. The said order is passed in Writ petition no. 4822 of 2005.

3. In my opinion I find no material on record to hold that the respondent was not entitled by virtue of her alleged loose character the meagre maintenance fixed by the family court of Rs.3000/-. In my opinion wild allegations of the petiioner are not supported by any relevant material and evidence and thus the order passed by the trial court does not require any interference under Article 227 of the Constitution of India.

4. There are two Civil applications which has been initiated by the petitioner in the present writ petition. Civil Application no.

3005 of 2005 is for the reliefs that the petitioner should be awarded travelling expenses of minimum Rs.6,000/- per month because there are additional proceedings filed before the District court, Family court, High Court of U.P. and the Apex Court. In the said application the relief has been sought for the aforesaid amount through three police men who are impleaded as Respondent no.7, 8 and 9. the said claim is made on the purported ground that the three police men are running the brothel and using his wife and thus they are liable to make the payment to him towards the said travelling expenses. By prayer (2) the summons are also sought against the Respondent no.2, 3 and 8. The second Civil Application which is Civil Application No. 3059 of 2005 the prayers are made that the marriage between the petitioner and the respondent be declared as brothel marriage and should be declared as void-ab-initio. There is a further contention raised that the status certificate should be awarded to the petitioner stating that the child is being used by the mother for brothel

activities. In prayer (c) he is seeking that his case should be examined under Article 133 and 134(c) of the Constitution of India as it involves substantial question of law of public importance. Under prayer (4) he is seeking the relief that his application should be critically examined and the brothel marriage should be declared as contrary to social custom and its purpose being unlawful should be considered. There are similar other reliefs in Civil Application no. 3059 of 2005. None of the prayers made in the Civil Applications deserves even a consideration. Both these Civil Applications are frivolous and vexatious. In so far as the main petition is concerned, the impugned order does not require any interference and fixation of maintenance and I therefore dismiss the same. The petition is accordingly dismissed. Both the Civil Applications are also dismissed. The petitioner is warned that in future if he takes out such a frivolous application he would be saddled with heavy cost.

sd/-

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